

16545

NOTICE OF RULE ADOPTION—FINAL RULE



STATE OF MISSISSIPPI  
MISSISSIPPI DEVELOPMENT AUTHORITY  
DISASTER RECOVER DIVISION

Mississippi Development Authority  
c/o William B. Thompson, Jr.  
Disaster Recovery Division  
P.O. Box 849  
Jackson, MS 30205

601-359-9177  
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Specific Legal Authority Authorizing the promulgation of  
Rule: PL 109-108, 109-234, 24 CFR Part 170, 71 FR 7666}  
Reference to Rules repealed, amended or suspended by the  
Proposed Rule :{ Insert citation to specific rule(s) repealed,  
amended or suspended: { N/A New Rule}

Date Rule Proposed: October 1, 2009

**Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:** Following the devastation of Hurricane Katrina, the United States Congress provided the State of Mississippi an allocation of federal Community Development Block Grant ("CDBG") funds through the United States Department of Housing and Urban Development ("HUD"). According to the designation of the Governor of the State of Mississippi, the Mississippi Development Authority ("MDA") has received and is administering these CDBG funds. In this effort, several Action Plans have been published and approved by HUD for delivery of this vital aid to the Katrina Presidentially declared disaster counties in accordance with federal law and regulations. MDA hereby establishes these "Appeals Guidelines" for applicants to appeal the award decisions, compliance notifications and the demand notifications for lack of plan compliance by recipients.

**The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.**

☐ An oral proceeding was held on this rule:

Date: {Insert Date}  
Time: {Insert Time}  
Place: {Insert Place}

☒ An oral proceeding was not held on this rule.

**The Agency has considered the written comments and the presentations made in any oral proceedings, and**

☐ This rule as adopted is without variance from the proposed rule.

☐ This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

☒ The rule as adopted differs from the proposed rule. The differences however are:  
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and  
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: November 26, 2009

William B. Thompson, Jr. Deputy Compliance Officer  
Signature and Title of Person Submitting Rule for Filing

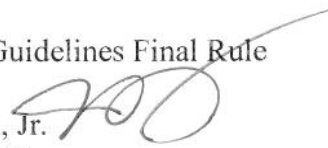


**STATE OF MISSISSIPPI**  
HALEY BARBOUR, GOVERNOR  
**MISSISSIPPI DEVELOPMENT AUTHORITY**  
GRAY SWOOPE  
EXECUTIVE DIRECTOR

**MEMORANDUM**

DATE: October 27, 2009

RE: MDA/DRD Appeals Guidelines Final Rule

FROM: William B. Thompson, Jr.   
Deputy Compliance Officer  
Disaster Recovery Division  
Mississippi Development Authority

TO: Connie Booker  
Mississippi Secretary of State's Office

CC: Chuck Bearman  
Patricia Hancock

This memorandum transmits the Mississippi Development Authority's Disaster Recover Division's Final Rule covering the MDA/DRD Appeals Guidelines. The rule is being issued as a Temporary Rule effective immediately and a Final Rule effective November 26, 2009. This memorandum contains explanatory information and should be included with the Final Rule when filed.

The proposed MDA/DRD Appeals Guidelines Final Rule was filed with the Mississippi Secretary of State's Office on October 1, 2009. No external comments were received during the public comment period that expired at the close of business on October 26, 2009. However, as a result of internal comment and discussion the final rule differs from the rule as proposed. These differences however are within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and the Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question. Therefore, in accordance with the Mississippi Administrative Procedures Law an additional comment period is not required.

The major differences between the Final Rule from the Proposed Rule are summarized below:

1. The word “award” was inserted in the first line of Section 101.01 to clarify that a notice of an “award” was subject to appeal. In addition the word “calendar” was inserted to clarify that an appeal must be received by MDA within sixty (60) calendar days.
2. Section 101.02 was changed by inserting an additional sentence to clarify that “appeals are determined solely on the written record; there will be no hearing or other oral proceeding conducted.”
3. Section 101.03 was changed to provide that in addition to delivery by U.S. Mail an appeal may be delivered by hand or courier mail to the Disaster Recovery Division at the Robert E. Lee Building.
4. Section 101.05 was changed to reflect that the Director of Disaster Recovery may designate another MDA employee to make the final determination on an appeal.
5. The time specified in Section 101.06 for Notice to the Applicant of the final resolution of the Appeal was increased from five (5) days to ten (10) “calendar” days. Calendar days are used here for consistency with Section 101.01.
6. New Sections 201.01 and 201.02 were added to define “Appeals Board” and Independent Hearing Officer(s) (IHO(s)) and to clarify that the Director of Disaster Recovery or the Director’s designee appoints the Independent Hearing Officer(s).